

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

EZEQUIEL OLIVARES ABARCA,)
individually and on behalf of)
all those similarly situated,)
et al.,)
)
Plaintiffs,) 8:14CV319
)
)
v.)
)
WERNER ENTERPRISES, INC.,) MEMORANDUM AND ORDER
and DOES 1-100, inclusive,)
)
Defendants.)
)

This matter is before the Court on plaintiffs' motion to appoint lead plaintiffs and lead counsel (Filing No. 95). The defendants filed a response (Filing No. 108). Plaintiff William Smith of *Smith v. Werner Enterprises, Inc., et al.* 8:15CV287 filed a brief in opposition to the plaintiffs' motion (Filing No. 113), to which the plaintiffs replied (Filing No. 116). After reviewing the motion, briefs, and applicable law, the Court will deny the plaintiffs' motion.

The plaintiffs move this Court to appoint lead plaintiffs and lead counsel under Federal Rule of Civil Procedure 42(a)(3). Rule 42(a)(3) allows a court to "issue any other orders to avoid unnecessary cost or delay" when a case is consolidated. Fed.R.Civ.P. 42(a)(3). This Court consolidated the *Abarca* and *Smith* cases (Filing No. 119 in 8:14CV319).

However, the *Smith* plaintiff opposes the appointment of lead plaintiffs and counsel as being premature. The Court has already appointed interim class counsel (Filing No. 73). The Court finds that failure to appoint lead plaintiffs and lead counsel at this early stage will not result in unnecessary cost or delay. The appointment of lead plaintiffs and lead counsel would be premature at this time. Accordingly,

IT IS ORDERED that plaintiffs' motion (Filing No. 95) to appoint lead plaintiffs and lead counsel is denied.

DATED this 20th day of November, 2015.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court